

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOHN R. McCOOL,

Plaintiff,

v.

5:21-CV-1242
(GTS/TWD)

NORTHUMBERLAND COUNTY; SNYDER COUNTY;
MICHAEL PIECUCH, D.A.; TONY MATULEWICZ, D.A.;
CHESTER H. CLARK, Super. of Inmate Classification
NYSDOCCS; JOHN ROBINSON, D.A.; HAROLD
WOELFEL, Common Pleas Judge; VINCENT R. MAZESKI,
Court Appointed Attorney; THOMAS BOOP, Assis. D.A.;
EDWARD W. KLEIN, Assis. D.A.; and ROBERT B.
SACAVAGE, D.A. and Common Pleas Court Judge,

Defendants.

APPEARANCES:

JOHN R. McCOOL, DN4994

Plaintiff, *Pro Se*
SCT Coal Township
1 Kelly Drive
Coal Township, Pennsylvania 17866

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* civil rights action filed by John R. McCool (“Plaintiff”) against the eleven above-captioned individuals and entities (“Defendants”) pursuant to 42 U.S.C. § 1983, are (1) Magistrate Judge Thérèse Wiley Dancks’ Report-Recommendation recommending that Plaintiff’s Amended Complaint (Dkt. No. 10) be *sua sponte* dismissed with prejudice and without further prior leave to amend pursuant to 28 U.S.C. § 1915A(b), and (2) Plaintiff’s Objection to the Report-Recommendation. (Dkt. Nos. 16, 17.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Dancks' thorough Report-Recommendation, the Court can find no error in the Report-Recommendation, clear or otherwise: Magistrate Judge Dancks employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein. To those reasons, the Court adds only two points.

First, even when construed with the utmost of special leniency, Plaintiff's six-page Objection sets forth only one *specific* challenge to any portion of the Report-Recommendation (identifying that portion and the basis for the objection): Magistrate Judge Dancks' purported "mistaken[] conclu[sion]" that *McCool v. Snyder Cty.*, 11-CV-1038, 2014 WL 2930648 (M.D. Pa. June 27, 2014), is "binding" on the undersigned in rendering this Decision and Order. (*Compare* Dkt. No. 17, at ¶ 4 [Plf.'s Obj.] *with* Dkt. No. 16, at 2 [Report-Recommendation].) The Court does not construe Magistrate Judge Dancks' Report-Recommendation as containing such a conclusion; rather, the Court construes the Report-Recommendation as citing the above-described decision only as grounds for a finding of res judicata/collateral estoppel and, in the alternative, as persuasive authority for a finding of untimeliness. (Dkt. No. 16, at 7.) The Court finds this finding to be both correct and further supported by the other cases cited in the Report-Recommendation. (*Id.* at 2-4, 7-9.)

Second, the Court continues to find that the claims asserted by Plaintiff in this action suffer from numerous fatal defects: (1) the claims are frivolous in that they were barred by the doctrines of res judicata and/or collateral estoppel (having been repeatedly litigated and decided) and the governing statutes of limitations (arising from events going back to 1995, 1988 and

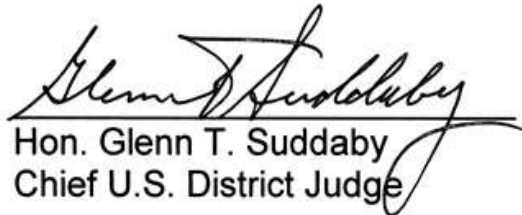
1981); (2) the claims fail to state a claim upon which relief may be granted; and (3) Defendants (who are prosecutors sued in their official capacities) are protected from liability as a matter of law based on judicial and/or prosecutorial immunity. (*See* Dkt. No. 4, at 1-2 [Decision and Order filed Dec. 13, 2021].)

ACCORDINGLY, it is

ORDERED that Magistrate Judge Dancks' Report-Recommendation (Dkt. No. 16) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Plaintiff's Amended Complaint (Dkt. No. 10) is *sua sponte* **DISMISSED with prejudice** and without further prior leave to amend pursuant to 28 U.S.C. § 1915A(b).

Dated: May 2, 2022
Syracuse, New York


Hon. Glenn T. Suddaby
Chief U.S. District Judge